#### BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Statement of Issues against:

CONNIE ANN CHASSEREAU 841 Parkside Ave Oakland, CA 94803

Case No. 2010-26

OAH No. 2010070866

Respondent.

#### **DECISION**

The attached proposed decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on February 4, 2011.

IT IS SO ORDERED this 4th day of January, 2011

President

Board of Registered Nursing

Department of Consumer Affairs

State of California

# BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Statement of Issues against:

CONNIE ANN CHASSEREAU Oakland, CA 94803,

Respondent.

Case No. 2010-26

OAH No. 2010070866

#### PROPOSED DECISION

Administrative Law Judge Jill Schlichtmann, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on September 30, 2010.

Carol Romeo, Deputy Attorney General, represented complainant, Louise R. Bailey, M.Ed., RN, the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs for the State of California.

Respondent was present and represented herself.

The matter was submitted on September 30, 2010.

#### FACTUAL FINDINGS

- Louise R. Bailey, M.Ed., RN, made this statement of issues in her official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board).
- 2. Respondent Connie Ann Chassereau applied to the Board for licensure by examination on March 29, 2010. The Board denied the application on April 27, 2010 based upon her two misdemeanor convictions for driving under the influence of alcohol. Respondent appealed and this hearing followed.

First Conviction involving Driving and Alcohol

3. On May 7, 2007, respondent was arrested for driving under the influence. The California Highway Patrol officer that arrested her observed her driving at a high rate of speed, and smelled alcohol on her breath after he pulled her over. The officer administered field sobriety tests and a preliminary alcohol screening test with results of .136% and .127%,

and determined that respondent had been driving under the influence of alcohol and with a blood alcohol content above the legal limit. A later blood test showed that respondent's blood alcohol content to be .14%. These acts would be grounds for disciplinary action for unprofessional conduct if done by a registered nurse.

- 4. On July 5, 2007, in the Superior Court of the State of California, County of Alameda, respondent was convicted by plea of no contest of violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol content over the legal limit).
- 5. The imposition of sentence was suspended and respondent was placed on summary probation for a period of three years on terms and conditions that included, serving two days in the Alameda County Sheriff Weekend Work Program, paying a fine, and enrolling in and completing a first offender alcohol treatment program. This conviction is substantially related to the qualifications, functions, and duties of a registered nurse

Second Conviction involving Driving and Alcohol

- 6. On April 19, 2009, respondent was arrested a second time for driving under the influence of alcohol after a citizen reported seeing a possible intoxicated driver to the Napa Police Department. An officer spotted a car fitting the description given driving over the line of a dead end street. Respondent was driving the identified vehicle. When the officer pulled respondent over, he smelled alcohol on her breath and observed her speech to be slurred. Respondent failed the field sobriety tests and the preliminary alcohol screening test, which registered a blood alcohol content of .186% and .175%. The officer concluded that respondent was driving under the influence and arrested her. These acts would be grounds for disciplinary action for unprofessional conduct if done by a registered nurse.
- 7. On August 5, 2009, in the Superior Court of the State of California, County of Napa, respondent was convicted of violating Vehicle Code section 23152, subdivision (a) (driving under the influence). Respondent admitted the special allegation under Vehicle Code section 23578, of having one prior conviction of violating Vehicle Code section 23152, subdivision (b). This conviction is substantially related to the duties, qualifications and functions of a registered nurse.
- 8. The imposition of sentence was suspended and respondent was placed on summary probation for a period of five years upon terms and conditions that included serving 15 days in jail and paying a fine of \$3,150.

Respondent's Rehabilitation Evidence

9. Respondent has been clean and sober since the date of her second arrest on April 19, 2009. She acknowledges that she made foolish mistakes and put other people's lives at risk with her actions. Realizing that she had a problem with drinking alcoholyshed decided to take the necessary steps to address the problem.

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- 10. Respondent began attending Alcoholics Anonymous meetings shortly after her second arrest. She continues to attend two to four meetings per week and has a sponsor. She has found the meetings to be very helpful and has benefited from the counseling of her sponsors. Respondent has made a point to read AA literature, including *Living Sober* and *The Big Book*.
- Respondent began attending the alcohol treatment program prescribed by the court on August 22, 2009, and has completed the six substance abuse education classes, 35 group counseling sessions, 26 individual sessions and 44 self-help meetings. She is currently in the final phase of the program, attending re-entry group meetings which meet monthly until March 3, 2011.
- 12. Respondent also sought help from the Alameda Family Services Drug and Alcohol Treatment Program since February 9, 2010. She has attended two group counseling sessions per week there in addition to her AA meetings. She also participates in weekly random and observed alcohol and drug testing and has tested negative on every test. The director of the program describes her attendance as excellent and her participation as active and full.
- 13. Respondent's parents are supportive of her decision to stop drinking alcohol and seek treatment. Respondent has made new friends who are also committed to a clean and sober lifestyle.
- 14. Beth Shrieve, the Assistant Director of the associate degree in nursing program at Los Medanos College, and one of respondent's instructors, supports her application for licensure and describes her as a highly motivated, responsible student who has done well in their program, and who frequently goes beyond what is required to meet the needs of her patients. She describes respondent's demeanor as professional and feels she would be an asset to the profession.
- 15. Joanne Bent, a registered nurse and member of the nursing faculty at Los Medanos College describes respondent as an excellent student and motivated learner who performs exceptionally well in the clinical setting. She finds respondent to demonstrate critical thinking skills as well as enthusiasm and good organization abilities. Bent notes that respondent recently completed a preceptorship in the emergency room at Doctor's Medical Center and that her preceptor reported that she had excellent nursing skills, a great attitude and the ability to collaborate well with the healthcare team.
- 16. Jacqueline D'Annuzio, RNC, MSN, IBCLC, a member of the adjunct nursing faculty at Los Medanos College, supervised respondent during her obstetrics rotation at Kaiser Walnut Creek. D'Annuzio found respondent to display effective communication skills with patients, family and staff. She also found respondent to present a calm and professional demeanor while being able to adapt easily to changes in her assignment. She found respondent to possess maturity, natural leadership abilities and a team attitude. Finally, noting that respondent performed her tasks while maintaining a 3.2 GPA in their

rigorous nursing program, she recommended her has an exceptional nursing student who would make an excellent nurse.

Respondent has worked as a volunteer in the HIV Prevention Project in the Harm Reduction Program in San Francisco since October 2009. The HIV Prevention Project is a needle exchange program that focuses on harm reduction. Respondent volunteers to help reduce HIV and Hepatitis C transmissions and infections among intravenous drug users. She hopes to improve the quality of life for a population she finds underserved in our society. Respondent volunteers with the program for a two-hour shift, two to four times per month. Respondent has also applied to be trained as a volunteer with a hospice facility for individuals living with AIDS.

#### LEGAL CONCLUSIONS

- Business and Professions Code section 480, subdivision (a), authorizes the denial of a license if the applicant has been convicted of a crime that is substantially related to the qualifications, functions or duties of the licensed business or profession or done any act which if done by a licentiate of the profession in question would be grounds for disciplinary action.
- Business and Professions Code section 2761, authorizes the Board to deny an application for a license for unprofessional conduct (subd. (a)) or a conviction of an offense that is substantially related to the qualifications, functions, and duties of a registered nurse (subd. (f)).
- Subdivision (b) of Business and Professions Code section 2762 defines unprofessional conduct to include the use of alcoholic beverages to an extent or in a manner dangerous to oneself or others. Subdivision (f) defines unprofessional conduct to include the conviction of a criminal offense involving the consumption of alcohol.
- By reason of the matters set forth in Findings 3 through 12, respondent's conduct on the dates of her arrests as well as her convictions constitute cause to deny her application for licensure by examination pursuant to Business and Professions Code sections 480, subdivision (a), 2761, subdivisions (a) and (f), and 2762, subdivisions (b) and (c).
- Respondent clearly exercised poor judgment when she decided to drink and drive. However, she has demonstrated significant rehabilitation since her second arrest for driving under the influence. Her dedication to her sobriety is evidenced by her commitment to AA, faithful attendance the court-ordered alcohol treatment program and the Alameda Family Services. She has demonstrated a change in attitude in her statements as well as in her actions, including forming bonds with sober friends. She has the support of her family and her AA sponsors. Respondent has shown her commitment to nursing through herally and herally are herally and herally and herally and herally are herally are herally and herally are herally excellent course work and experience in the workplace. (Findings 13 to 21.) It would not be contrary to the public interest to grant respondent a probationary license. 10:6 MA 35 TJO 0105 contrary to the public interest to grant respondent a probationary license. BECEIAED

#### ORDER

The application of respondent Connie Ann Chassereau licensure is hereby granted.

Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of three years on the following conditions:

SEVERABILITY CLAUSE – Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

(1) OBEY ALL LAWS - Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

CRIMINAL COURT ORDERS: If respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

(2) <u>COMPLY WITH THE BOARD'S PROBATION PROGRAM</u> - Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, respondent's license shall be fully restored.

(3) <u>REPORT IN PERSON</u> - Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

(4) RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE Periods of residency or practice as a registered nurse outside of California
shall not apply toward a reduction of this probation time period.
Respondent's probation is tolled, if and when she resides outside of
California. The respondent must provide written notice to the Board within
15 days of any change of residency or practice outside the state, and within
30 days prior to re-establishing residency or returning to practice in this
state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

(5) <u>SUBMIT WRITTEN REPORTS</u> - Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he or she has a registered nurse license.

(6) <u>FUNCTION AS A REGISTERED NURSE</u> - Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If respondent has not complied with this condition during the probationary term, and the respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition. During the one-year extension, all original conditions of probation shall apply.

(7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS Respondent shall obtain prior approval from the Board before commencing or
continuing any employment, paid or voluntary, as a registered nurse.
Respondent shall cause to be submitted to the Board all performance
evaluations and other employment related reports as a registered nurse upon
request of the Board.

Respondent shall provide a copy of this decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, respondent shall notify the Board in writing within seventy-two (72) hours after he or she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

(8) <u>SUPERVISION</u> - Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.

- (c) Minimum The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.
- (d) Home Health Care If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.
- (9) <u>EMPLOYMENT LIMITATIONS</u> Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If the respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

(10) <u>COMPLETE A NURSING COURSE(S)</u> - Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term. Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall

return the original documents to respondent after photocopying them for its records.

(11) <u>VIOLATION OF PROBATION</u> - If respondent violates the conditions of her probation, the Board after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of the respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the respondent's license, the probationary period shall automatically be extended and shall-not expire until the accusation or petition has been acted upon by the Board.

(12) <u>LICENSE SURRENDER</u> - During respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, respondent may surrender her license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- 1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- 2) One year for a license surrendered for a mental or physical illness.
- (13) PHYSICAL EXAMINATION Within 45 days of the effective date of this decision, respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by the respondent with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required until the Board has notified respondent that a medical determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If the respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such eyidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

(14) PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE - Respondent, at her expense, shall successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider respondent in violation of probation.

Based on Board recommendation, each week respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING)

DRUGS -Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

(16) <u>SUBMIT TO TESTS AND SAMPLES</u> - Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. Respondent is responsible for keeping the Board informed of respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the respondent shall be considered in violation of probation.

In addition, respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final

decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

(17) MENTAL HEALTH EXAMINATION - Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the respondent.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified respondent that a mental health determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the 15/032 respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

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- (18) THERAPY OR COUNSELING PROGRAM Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.
- (19) <u>ACTUAL SUSPENSION OF LICENSE</u> Respondent is suspended from the practice of registered nursing for one month beginning the effective date of this decision.

During the suspension period, all probation conditions are in full force and effect except those relating to actual nursing practice. This period of suspension will not apply to the reduction of this probationary time period.

DATED: 10/26/10

LL SCHLICHTMANN dministrative Law Judge

Office of Administrative Hearings

1	EDMUND G. BROWN JR. Attorney General of California
2	DIANN ŠOKOLOFF
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8	BEFORE THE
	BOARD OF REGISTERED NURSING
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
10	
11	In the Matter of the Statement of Issues Against:  Case No. 2010 - 26
12	Connie Ann Chassereau STATEMENT OF ISSUES
13	841 Parkside Avenue Oakland, California 94803
14	Respondent.
15	Respondent.
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17	Complainant alleges:
18	PARTIES
19	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
20	her official capacity as the Interim Executive Officer of the Board of Registered Nursing,
21	Department of Consumer Affairs.
22	2. At some time after March 29, 2010, the Board of Registered Nursing, Department of
23	Consumer Affairs received an application for a Registered Nurse License from Connie Ann
24	Chassereau (Respondent). On or about March 29, 2010, Connie Ann Chassereau certified under
25	penalty of perjury to the truthfulness of all statements, answers, and representations in the
26	application. The Board denied the application on April 27, 2010.
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#### JURISDICTION

- 3. This Statement of Issues is brought before the Board of Registered Nursing (Board),
  Department of Consumer Affairs, under the authority of the following laws. All-section
  references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 2736 of the Business and Professions Code (Code) provides, in pertinent part, that the Board of Registered Nursing (Board) may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.
- 5. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

#### STATUTORY PROVISIONS

- 6. Section 480 of the Code states, in pertinent part:
- "(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
- "(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
- "(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
- "The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

"(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license."

7. Section 2761 of the Code states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct.

"(e) Making or giving any false statement or information in connection with the application for issuance of a certificate or license.

- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."
  - Section 2762 of the Code states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

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- "(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- "(c) Be convicted of a criminal offense involving the prescription, consumption, or self administration of any of the substances described in subdivisions (a) and (b) of this section, or the 111

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possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."

#### FIRST CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct)
(Bus. & Prof. Code §§ 480(a)(3) and 2761(a))

- 9. Respondent has subjected her application for a Registered Nurse License to denial under Code section 480(a)(3) for committing an act which, if done by a registered nurse, would be grounds for disciplinary action for unprofessional conduct under Code section 2761(a). The circumstances are as follows:
- On or about May 1, 2007, in Fremont, California, Respondent was pulled over by a California Highway Patrol (CHP) officer after the officer observed Respondent driving her 2008 Honda Accord at 104 miles per hour on southbound on I-880. The CHP officer approached Respondent through the open driver side window and detected the distinct odor of an alcoholic beverage emitting from within the vehicle. The CHP officer notified Respondent the reason for the stop and asked Respondent if she had any alcohol to drink. Respondent replied, "I did drink a little earlier." The CHP officer asked Respondent what she drank and Respondent replied, "Corona." Respondent admitted to drinking four Coronas. The CHP officer observed Respondent's eyes to be red and watery and her speech to be slow and slurred. The CHP officer asked Respondent to step out of her vehicle and directed to the right front of the CHP vehicle. The CHP officer asked Respondent a series of Pre-Field Sobriety Test Questions and noticed the strong odor of an alcoholic beverage emitting from her breath. The officer administered a series of pre-demonstrated Field Sobriety Tests, in which Respondent showed signs of impairment. Respondent entered two breath samples in the Preliminary Alcohol Screening (PAS) device. The presence of alcohol was detected on both breath samples by blood alcohol content (BAC) readings of .136% and .127%.
- b. Based on Respondent's objective signs and symptoms of intoxication and her poor performance of the Field Sobriety Tests, the CHP officer formed the opinion that she was driving under the influence of alcohol. Respondent was placed under arrest for violating Vehicle Code section 23152(a) (driving under the influence of an alcoholic beverage). After being advised of

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Vehicle Code section 23612 (implied consent), Respondent chose to take a blood test to determine her BAC. Respondent was transported to Washington Hospital where a blood test was administered. Respondent was then transported to the Fremont Police Department Jail and booked on charges of violating Vehicle Code sections 23152(a) and 23152(b). The blood test showed a BAC of .14%.

c. The District Attorney's Office charged Respondent with violating Vehicle Code sections 23152(a) (driving while under the influence of an alcoholic beverage) and 23152(b) (driving with a blood alcohol content of .08% and more), both misdemeanors. Respondent was later convicted of violating Vehicle Code section 23152(b) (see below).

# SECOND CAUSE FOR DENIAL OF APPLICATION (Substantially Related Conviction) (Bus. & Prof. Code § 480(a)(1))

10. Respondent has subjected her application for a Registered Nurse License to denial under Code section 480(a)(1) in that she was convicted of a crime substantially related to the qualifications, functions, or duties of a registered nurse. Specifically, on or about July 5, 2007, in the Superior Court of California, County of Alameda, Case Number 224619, entitled *The People of the State of California v. Connie Ann Chassereau*, Respondent was convicted by the court of violating Vehicle Code section 23152(b) (driving with a blood alcohol content of .08% and more), a misdemeanor. Respondent was placed on probation for three years upon terms and conditions, which included, but were not limited to, serving two days in the Alameda County Sheriff Weekend Work Program, with credit for time served of 1 day; obeying all laws; enrolling in a 1st Offender DUI program; and not indulging in (excessive) use of alcohol.

### THIRD CAUSE FOR DENIAL OF APPLICATION (Conviction of a Crime Involving Alcohol) (Bus. & Prof. Code §§ 480(a)(3) and 2762(c))

- 11. The allegations of paragraphs 9 and 10 are hereby realleged and incorporated by reference as if fully set forth.
- 12. Respondent has subjected her application for a Registered Nursing License to denial under Code section 480(a)(3) for doing an act which if done by a registered nurse would be grounds for disciplinary action under Code section 2762(c), i.e., for being convicted of a crime

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involving alcohol. Specifically, on or about July 5, 2007, Respondent was convicted of a crime involving the consumption of alcoholic beverages, as set forth in paragraphs 9 and 10, above.

#### FOURTH CAUSE FOR DENIAL OF APPLICATION

(Use of Alcohol to a Dangerous Extent) (Bus. & Prof. Code §§ 480(a)(3) and 2762(b))

- The allegations of paragraph 9 are hereby realleged and incorporated by reference as if fully set forth.
- Respondent has subjected her application for a Registered Nursing License to denial under Code section 480(a)(3) for doing an act which if done by a registered nurse would be grounds for disciplinary action under Code section 2762(b), i.e., for using alcohol to a dangerous extent. Specifically, on or about May 1, 2007, Respondent used, and was under the influence of, alcoholic beverages, while driving a vehicle in Alameda County, California, to an extent dangerous or injurious to herself and the public, as set forth in paragraph 9, above.

### FIFTH CAUSE FOR DENIAL OF APPLICATION

Unprofessional Conduct) (Bus. & Prof. Code §§ 480(a)(3) and 2761(a))

- Respondent has subjected her application for a Registered Nurse License to denial under Code section 480(a)(3) for doing an act which if done by a registered nurse would be grounds for disciplinary action for unprofessional conduct under Code section 2761(a). The circumstances are as follows:
- On or about April 19, 2009, in Napa, California, Respondent was pulled over by a Napa Police Department (NPD) officer after a citizen reported a possible intoxicated driver. The officer observed Respondent driving her 2008 Honda Accord on the wrong side of the roadway. The officer also observed that Respondent's vehicle's two left tires were approximately five feet from the east portion of the roadway in violation of Vehicle Code section 21650 (right half of roadway). The NPD officer conducted a traffic stop and approached Respondent from the driver's side of the vehicle. Respondent said, "I know I was driving crazy, we are lost." The NPD officer immediately smelled a strong odor of alcohol coming from inside the vehicle. While speaking to Respondent, the officer also noticed that her speed was slurred, and her eyes were bloodshot and watery. The officer smelled a strong odor of alcohol coming from her breath. The

NPD officer asked Respondent how much alcohol she had consumed and Respondent told him that she and her female passenger had been wine tasting earlier in the day and she had consumed approximately three glasses of wine and champagne,

- b. The NPD officer explained to Respondent that he wanted to evaluate her due to the objective signs of impairment. Respondent exited the vehicle, slightly staggering as she did so. The officer asked Respondent to submit to a series of field sobriety tests, which she did. Respondent poorly performed the field sobriety tests, such as the Horizontal Gaze Nystagmus (HGN) test which detected involuntary jerking of her eyes. The officer next asked Respondent to submit to a Preliminary Alcohol Screening (PAS) devise and she complied. Respondent provided two complete samples which showed BACs of .186% and .175%, respectively. Based on Respondent's objective signs of impairment, the NPD officer formed the opinion that she had been driving under the influence. The NPD officer arrested Respondent for violating Vehicle Code sections 23152(a) and 23152(b), and then searched her. While being transported to the police station, Respondent chose to submit to a blood test of her BAC.
- c. The District Attorney's Office charged Respondent with violating Vehicle Code sections 23152(a) (driving while under the influence of an alcoholic beverage) and 23152(b) (driving with a blood alcohol content of .08% and more), both misdemeanors. Enhancements under Vehicle Code section 23578 (having prior convictions) were also alleged. Respondent was later convicted of violating Vehicle Code section 23152(a), a misdemeanor, and admitted to the enhancement under Vehicle Code section 23578 of having a prior conviction (see below).

# SIXTH CAUSE FOR DENIAL OF APPLICATION (Substantially Related Conviction) (Bus. & Prof. Code § 480(a)(1))

16. Respondent has subjected her application for a Registered Nurse License to denial under Code section 480(a)(1) in that she was convicted of a crime substantially related to the qualifications, functions, or duties of a registered nurse. Specifically, on or about August 5, 2009, in the Superior Court of California, County of Napa, Case Number CR146095, entitled *The People of the State of California v. Connie Ann Chassereau*, Respondent was convicted by the court of violating Vehicle Code section 23152(a) (driving while under the influence of an

1	alcoholic beverage), a misdemeanor. Respondent also admitted the special allegation under
2	Vehicle Code section 23578 of having one prior conviction of violating Vehicle Code section
3-	23152(b)). Respondent was placed on summary probation for five years upon terms and
4	conditions, which included, but were not limited to, serving fifteen in jail with credit for time
5	served of 2 actual days, and paying a fine of \$3,150.00.
6 7	SEVENTH CAUSE FOR DENIAL OF APPLICATION  (Conviction of a Crime Involving Alcohol)  (Bus. & Prof. Code §§ 480(a)(3) and 2762(c))
8	17. The allegations of paragraphs 15 and 16 are hereby realleged and incorporated by
9	reference as if fully set forth.
10	18. Respondent has subjected her application for a Registered Nursing License to denial
11	under Code section 480(a)(3) for doing an act which if done by a registered nurse would be
12	grounds for disciplinary action under Code section 2762(c), i.e., for being convicted of a crime
13	involving alcohol. Specifically, on or about August 5, 2009, Respondent was convicted of a
14	crime involving the consumption of alcoholic beverages, as set forth above in paragraphs 15 and
15	16.
16 17	EIGHTH CAUSE FOR DENIAL OF APPLICATION  (Use of Alcohol to a Dangerous Extent)  (Bus. & Prof. Code §§ 480(a)(3) and 2762(b))
18	19. The allegations of paragraph 15 are hereby realleged and incorporated by reference as
19	if fully set forth.
20	21. Respondent has subjected her application for a Registered Nursing License to denial
21	under Code section 480(a)(3) for doing an act which if done by a registered nurse would be
22	grounds for disciplinary action under Code section 2762(b), i.e., for using alcohol to a dangerous
23	extent. Specifically, on or about April 19, 2009, Respondent used and was under the influence of
24	alcoholic beverages, while driving a vehicle in Napa County, California, to an extent dangerous
25	or injurious to herself and the public, as set forth above in paragraph 15.
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### **PRAYER** WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision: Denying the application of Connie Chassereau for a Registered Nurse License; and 1. Taking such other and further action as deemed necessary and proper. 2. DATED: 7-9-2010 LOUISE R. BAILEY, M.ED., RN Interim Executive Officer Board of Registered Nursing Department of Consumer Affairs State of California Complainant SF2010200854 CR: 07/01/10

STATEMENT OF ISSUES